

## Message Text

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ACTION L-03

INFO OCT-01 IO-14 ISO-00 ACDA-19 AF-10 ARA-16 EA-11 EUR-25

NEA-10 RSC-01 OIC-04 AEC-11 CIAE-00 DODE-00 PM-07

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FM USMISSION USUN NEW YORK

TO SECSTATE WASHDC 3404

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E.O. 11652: N/A

TAGS: UN PFOR

SUBJECT: DEFINITION OF AGGRESSION

REF: STATE 64953

1. NEW CONTACT GROUP (OPEN TO ALL COMMITTEE MEMBERS) HAS BEEN FORMED REVIEW WORK OF OTHER CONTACT GROUPS ON ENTIRE DEFINITION. GROUP BEGAN WITH PREAMBLE, AND ACCEPTED PARAS 1-3 AS IN ORIGINAL TEXT, AND 4, 8, AND 9 WITH MINOR DRAFTING CHANGES. CONSIDERATION PARAS 5, 6 AND 7 DELAYED, RESPECTIVELY, BY ROMANIAN INSISTENCE ON REFERRING IN PARA 5 TO PERMANENT PROHIBITION ON USE OF NUCLEAR WEAPONS, SPANISH PROPOSAL TO ADD REFERENCE IN PARA 6 TO SOVEREIGNTY AND TERRITORIAL INTEGRITY OF PEOPLES, AND ROMANIAN INSISTENCE ON DELETING FINAL REFERENCE TO CHARTER IN PARA 7. GROUP WILL RETURN TO THESE PARAS AFTER TIME FOR CORRIDOR CONSULTATIONS AMONG INTERESTED DELS. WE HAVE OPPOSED THESE AMENDMENTS AND EXPECT THEY WILL BE EXCLUDED OR RENDERED HARMLESS BY REDRAFTING.

2. GROUP ACCEPTED PRESENT TEXT OF ART 1 WITH SLIGHT

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DRAFTING CHANGE IN EXPLANATORY NOTE. "HOWEVER

EXERTED" WILL REMAIN FOR NOW IN BRACKETS UNTIL 3(G)  
RESOLVED.

3. ON ART 2, US PROPOSED REDRAFT SUGGESTED IN  
PARA 2 OF REFTEL. A FEW DELS (UK, CANADA, SPAIN)  
THOUGHT THIS WAS DRAFTING IMPROVEMENT, BUT MOST DELS  
REACTION VERY NEGATIVELY. COLOMBIA AND MADAGASCAR  
TOOK THIS AS OPPORTUNITY TO INTRODUCE COUNTER-  
PROPOSALS FOR ART WHICH OMITTED REFS TO BOTH  
"CONTRAVICTION OF CHARTER" AND "PURPOSES". AFTER  
HEATED EXCHANGE, MEETING ADJOURNED WITHOUT  
RESOLUTION OF QUESTIONS. LATER INFORMAL NEGOTIATING  
SESSION REVEALED THAT BROMS (FINLAND), LAMPTEY (GHANA)  
AND OTHER MODERATES HAVE IN MIND DELETING "PURPOSES"  
IN RETURN FOR RETENTION OF "CONTRAVICTION"  
LANGUAGE. THIS ACCEPTABLE TO USSR AND OTHER SIX  
POWERS, BUT FRANCE STILL OPPOSES RETENTION OF "IN  
CONTRAVICTION" (APPARENTLY A PROBLEM OF CONTINENTAL  
JURISPRUDENCE).

4. ON ART 3, US PROPOSED REPLACEMENT OF "SHALL..."  
CONSITITUTE" IN INTRODUCTORY LANGUAGE WITH "WOULD..."  
QUALIFY AS"; UK, JAPAN AND ITALY SPOKE IN FAVOR, AND  
NO IMMEDIATE OBJECTIONS RAISED; GROUP WILL RETURN TO  
IT LATER. SUBPARA (A), (C) AND (E) ACCEPTED WITHOUT  
OBJECTION. APPROVAL OF SUBPARAS (B) AND (D) DEFERRED  
WHEN ROMANIA INSISTED ON REFERENCE IN FORMER TO  
WEAPONS OF MASS DESTRUCTION, AND ECUADOR INSISTED  
ON DELETION OF "MARINE AND AIR FLEETS" FROM LATTER.  
GROUP CLEARLY OPPOSED TO BOTH PROPOSALS, AND  
DECIDED ONLY TO GIVE ROMANIA AND ECUADOR OPPORTUNITY TO  
PREPARE POSSIBLE STATEMENTS FOR INSERTION IN COMMITTEE  
REPORT TO COVER THEIR CONCERNS. SUBPARA (F) ACCEPTED  
AS FOLLOWS: "THE ACTION OF A STATE IN ALLOWING ITS  
TERRITORY, WHICH IT HAS PLACED AT THE DISPOSAL OF  
ANOTHER STATE, TO BE USED BY THAT OTHER STATE FOR  
PERPETRATING AN ACT OF AGGRESSION AGAINST A THIRD  
STATE." NO OBJECTIONS OF SUBSTANCE RAISED TO SUBPARA  
(G); GROUP WILL RETURN TO IT LATER. ART 4  
ACCEPTED AS PREVIOUSLY REPORTED.  
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5. AS DEPT AWARE PER TELECONS WITH US DELOFFS,  
STORMY DEBATE HAS OCCURRED ON ART 5. SEVERAL DELS,  
INCLUDING SPAIN, ALGERIA AND EGYPT, HAVE OBJECTED TO  
INCLUSION OF "FORCIBLY DEPRIVED" LANGUAGE; 13-POWER  
DELS HAVE VIGOROUSLY OPPOSED USE OF TERM  
"LEGITIMATE" TO QUALIFY MEANS USED BY OPPRESSED PEOPLES  
AND HAVE PROPOSED A VARIETY OF UNACCEPTABLE TERMS TO

REPLACE IT; AND SOME 13-POWER DELS ALSO PRESSING FOR  
REFERENCE TO "OTHER RELEVANT PROVISIONS", MEANING  
GA RESOLUTIONS FAVORABLE TO THEM. US AND UK HAVE  
TAKEN FIRM LINE AGAINST THESE PROPOSALS AND, AS RESULT,  
WE MAY BE MOVING TOWARD TEXT WHICH PRESERVES  
"FORCIBLE DEPRIVATION", ADEQUATELY QUALIFIES ACTIONS  
TO WHICH PEOPLES MAY HAVE RESORT, AND AVOIDS REFS  
TO DOCUMENTS OTHER THAN CHARTER AND FRIENDLY RELATIONS  
DECLARATION. IT IS, HOWEVER, IMPOSSIBLE TO TELL  
WHETHER EGYPT, ALGERIA AND OTHER RADICALS WILL PERMIT  
AGREEMENT ON THIS BASIS.

6. COMPLETION OF ART 6 HAS BEEN HUNG UP BY INSTRUCTIONS  
OF UK DEL TO OPPOSE IDENTIFICATION OF ALL ACTS OF  
AGGRESSION AS "CRIMES", AND SOVIETS INSTRUCTIONS TO  
THE CONTRARY. BROMS HAS PROPOSED COMPROMISE ALONG  
FOL LINES: "A WAR OF AGGRESSION CONSTITUTES A CCRIME  
AGAINST INTERNATIONAL PEACE AND AGGRESSION  
GIVES RISE TO RESPONSIBILITY UNDER INTERNATIONAL  
LAW." UK IS PRESSING FOR INSERTION OF "STATE" BEFORE  
"RESPONSIBILITY", AND DELETION OF "AND" SO AS TO MAKE  
TWO SENTENCES.

7. ROMANIA CONTINUES TO PRESS FOR INCLUSION AS  
OPERATIVE PARA OF ITS PROPOSAL THAT "NO CONSIDERATION  
OF WHATEVER NATURE, WHETHER POLITICAL, ECONOMIC,  
MILITARY OR OTHERWISE, RELATING TO THE INTERNAL  
OR FOREIGN POLICY OF A STATE, MAY SERVE AS A JUSTI-  
FICATION FOR AGGRESSION AS HEREIN DEFINED." USSR  
AND OTHERS HOSTILE TO THIS, AND BROMS HAS URGED  
THAT A SHORTENED VERSION (WITHOUT REFS TO "INTERNAL  
OR FOREIGN POLICY") BE INCLUDED EITHER IN ART 6 OR  
PREAMBLE.

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